

Michigan House of Representatives

Judiciary Committee

April 13, 2010

Outline of Remarks by Richard D. McLellan

HJR XX– Term Limits Extension

- Constitutional amendment (to be voted on in November, 2010 to have effect on redistricting)
- Changes state senate terms to 6 years elected 1/3 every two year, similar to U.S. Senate process
- Deletes redistricting process found unconstitutional
- Changes state house terms to 4 years with 1/2 each two years
- Provides drawing of lots to select classes and provides transitional rules
- **Effect is to amend term limits without directly amending that section of the Constitution**
- No change in term limits language, but legislators can serve more years:

Legislative Body	Present Constitution Term Limits	HJR WW Term Limits	Increase Present Constitution
House	6	12	+6
Senate	8	12	+4
Total Possible	14	24	+10

Comments

- Extending terms reduces the number of time an elected official has to face the voters
- Staggered legislative bodies makes it less likely that one party will sweep into power in any election, e.g., Obama-led Democrat House sweep in 2008 or potential “Tea Party” landslide for GOP in 2010
- Deleting unconstitutional redistricting language is over due; but nothing to replace it
- Will increase pressure for county commissioner terms of 4 years
- Allows state senators and state house members, in some cases, to have a “free ride” to run for statewide office and still retain legislative seat in they lose
- My advice: propose instead a one word change – add “consecutive” to term limits to eliminate lifetime ban

HJR WW

- Changes method of nominating attorney general and secretary of state from party conventions to primary election

Comments

- Constitutional amendment must have strong reasons behind it; what is the reason for changing?
- May be unintended consequences
- Primary election for “inferior offices” diminishes role and power of gubernatorial candidate to select his or her team
- Primary election for SOS and AG will drive up costs; more likely to lead to self-funded candidates
- Political party will have less ability to balance ticket – race, gender, geography, etc.
- Requires implementing legislation
- May allow more public discussion of legal issues related to AG position – e.g., tort reform
- SOS and AG candidates have reason to campaign before public rather than delegates and party bosses
- Makes campaign longer
- How was this done before 1963 Constitution?

HB 5908

- Amends 2000 redistricting legislation
- Requires “the Legislative Services Bureau” to prepare redistricting plans to be introduced in bill form.
- Statutorily require up or down vote in both houses.
- If disapproved, legislative body “provide information...why the plan was not approved.”
- Second plan submitted and voted on in same way. If rejected, third plan is submitted.
- Third plan can be amended by Legislature.
- Adopted plan subject to governor’s veto.
- Retains existing guidelines, e.g., contiguity, population range of 105% to 95% of ideal, preserve county lines, fewest whole cities and townships, compactness, etc.
- Deletes reference to previous cases and adds reference to federal Voting Rights Act.
- New: prohibits drawing lines “favoring a political party, incumbent legislator, or other person or group” or “racial minority” or use “voting history data, past election results or incumbent addresses.”
- Establishes priority order of guidelines for congressional districts based on federal law with first priority being “precise mathematical equality of population”
- LSB to make information, data, maps, etc. available when plan released.
- Adds congressional redistricting to state supreme court original and exclusive jurisdiction
- Public disclosure, maps, summary of standards, population deviation required to be made public and on a website

Comments

- LSB is a non-partisan agency, but it is under the control of the Legislative Council. Giving a nonpartisan professional staff a political function will inevitably politicize it
- Statute passed in 2010 Legislature directing how 2011-2012 Legislature must handle matters (up or down vote, no amendments) contravenes Constitutional provision that each legislature will establish its own rules
- Requirement that legislative body provide information “why [plan] was not approved” makes little sense. It was not approved because it did not generate sufficient votes.
- “Favoring a political party” is an impossible standard. Whatever lines are drawn will somehow or other, perhaps in unknown ways, favor a party.

HB 5914

- LSB to redistrict House and Senate
- House has 60 days to “reject,” not approve, the plan. Requires 2/3 vote of either house to reject
- No amendments permitted
- If rejected, body rejecting must disclose “why the plan was rejected”
- If LSB “adopts” changes “suggested,” “the plan is considered adopted”
- If not adopted, LSB prepares second plan
- If rejected, LSB prepares third plan with changes suggested “if it agrees” and the plan is considered adopted
- If the LSB does not agree with changes, the second plan is adopted
- Changes existing guidelines: changes “least cost” to “reasonably adhering” while deleting principle of maintaining “the maximum preservation of city and township lines”
- Changes compactness standard
- Prohibits LSB drawing lines using “voting history data, past election results of incumbent addresses” in preparing plans

Comments

- Changes legislative redistricting from a legislative enactment to a “plan” adopted by a staff agency of the Legislature; by making redistricting a staff function rather than a legislative act, increasingly likely to lead to litigation
- Bill turns government process upside down: legislative staff unit is charged with “approving” suggestions of the elected legislators; if the staff disagrees, it can impose its plan over the objections of the elected legislature
- Original Apol plan process – preserving city and township lines, if possible – has served people well. Changing to “principle of equality of population,” if not constitutionally required, does not contribute to public support of the Legislature
- Is change in standards intended to provide basis for Michigan Supreme Court politicization of redistricting by abandoning preservation of municipal boundaries?